STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	)	
On Its Own Motion	)	
	)	
v.	)	Docket 08-0532
	)	
Commonwealth Edison Company	)	
Investigation of Rate Design	)	
Pursuant to Section 9-250 of	)	
the Public Utilities Act.	)	

INITIAL BRIEF OF THE CITY OF CHICAGO

THE CITY OF CHICAGO

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Pursuant to Section 200.800 of the Rules of Practice of the Illinois Commerce Commission ("Commission" or "ICC") and the briefing schedule established by the Administrative Law Judges, the CITY OF CHICAGO ("City") by its attorney, Mara S. Georges, Corporation Counsel, submits its Initial Brief in this proceeding.

I. INTRODUCTION AND SUMMARY OF ARGUMENT

This case was initiated by the Commission following its Order in Commonwealth Edison Company's ("ComEd") most recent rate case – Docket 07-0566. In its Order in the rate case, the Commission strongly criticized the embedded cost of service study ("ECOSS") ComEd proposed using to set rates for its various rate classes. The Commission summarized its frustrations with ComEd's cost study, stating "the substantial deficiencies in specific elements of the ECOSS render it problematic for purposes of rate setting in this docket." *In re Commonwealth Edison Company*, I.C.C. Docket 07-0566, Final Order at 213 (Sep. 10, 2008) (the "Rate Order"). Although it was plainly unhappy with the utility's cost study, the Commission believed it had no alternative but to use ComEd's ECOSS (with one modification) to set rates in the rate case. *Id*.

The Commission's displeasure with ComEd's cost study in Docket 07-0566 precipitated this case. In its Initiating Order in this case, the Commission directed ComEd to submit a revised cost study rectifying the "substantial deficiencies" the Commission identified in its Rate Order. *ICC v. Commonwealth Edison Company*, I.C.C. Docket 08-0532, Initiating Order at 2 ("Initiating Order"). In particular, the Commission enumerated five specific modifications ComEd was either to make to, or analyze as part of, its revised ECOSS. Each of these five modifications addressed what had been identified in the Rate Order as a substantial deficiency in Docket 07-0566.

Despite the Commission's clear directions, the record shows that, for the most part, ComEd did not comply with the Initiating Order. It seems obvious that the Commission expected the parties to engage in serious discussions to make changes to the utility's ECOSS such that it would be more consistent with cost causation principles. As this brief shows, ComEd chose not to participate in serious discussions, nor was it willing to take a fresh look at the "serious deficiencies" the Commission described in its Rate Order.

Instead, ComEd made what can be generously described as minimal changes to its ECOSS. One consequence ComEd's tactic is that other parties to this case, including the City, were forced to conduct the analyses that the Commission directed ComEd to do. After sitting back and letting others do the work that the Commission ordered it to do, ComEd criticized the different analyses put forth by the various parties. ComEd's apparent intent in doing this was to transfer the burden of proof to Commission Staff and Intervenors. The Commission should condemn ComEd's tactics.

Because ComEd made no serious effort to analyze the issues that most concern the City, the City submitted the testimony of Edward C. Bodmer to do the work that ComEd did not do.

Mr. Bodmer analyzed the costs that ComEd incurs to serve the City's residential street lights and its arterial street lights and concluded that ComEd's cost study allocates far too many costs to the City's street lighting account. Mr. Bodmer recommended that the City's street lighting rate be reduced by at least 50% to rectify the many errors in ComEd's cost study.

Mr. Bodmer also analyzed the manner in which ComEd allocates certain costs it terms "customer costs." ComEd allocates these costs based on the number of customers in each class, meaning that residential customers pay the greatest share by far. Although the Commission directed ComEd to review these costs to determine if they should be allocated based on usage. ComEd conducted what can be fairly described as a cursory analysis, falling back each time to its default position that these costs should be allocated according the number of customers. Mr. Bodmer's detailed and far more serious analysis shows that ComEd's allocation method is wrong and unfairly imposes more than $48 million in costs on residential customers.

In assessing Mr. Bodmer's testimony and the evidence submitted by other parties, the Commission must be mindful that ComEd bears the burden of proving that its ECOSS can be used to set just and reasonable rates 220 ILCS 5/9-201(c); 5/9-250. The Commission cannot fall prey to ComEd's tactic of failing to comply with the Initiating Order and then criticizing others for failing to prove that ComEd's cost study is not just and reasonable.

II. <u>ARGUMENT</u>

A. <u>ComEd Did Not Comply With the Commission's Initiating Order.</u>

As discussed above, in its Rate Order, the Commission concluded that ComEd's ECOSS suffered from "substantial deficiencies. Rate Order at 213. Among other things, the Commission found

- ComEd's cost study "is deficient in not separating and properly allocating primary and secondary costs." Rate Order at 207.
- The evidence was not clear as to whether some portion of customer care costs should be directly assigned to bundled customers, rather than to all distribution customer classes, as recommended by ComEd. As a result, the Commission concluded that this issue merited further investigation. *Id*. at 207-208.
- Contrary to the assumptions in ComEd's cost study, the City of Chicago, unlike other municipalities, "owns and maintains most of the light poles, secondary wire and other components of street lights throughout the City. The ECOSS fails to take into account this division in ownership and maintenance responsibilities. Therefore, the rate for street lighting in the City and probably other municipalities that own all or part of their own lighting is likely higher by a significant but un-quantified amount than it should be." *Id*. at 208.
- The Commission found that the record was not clear that, as advocated by the City, certain components of customer costs – in particular customer billing costs, data management costs, installation costs, service drops, and customer information costs – should be allocated based on usage. However, the Commission agreed that ComEd's method of allocating customer costs based on the number of customers is "inconsistent with the General Assembly's mandate that reducing energy use is a vital policy objective of the State." *Id*. at 211.
- The Commission found that ComEd's method for allocating uncollectible costs within the residential class resulting in 38.4% of the uncollectible expense being allocated to the multi-family class who account for only 5% of energy sales "is

> unfair and inconsistent with the allocation of other residential customer costs." *Id*. at 212.

After enumerating these many problems, the Commission stated that the ComEd's "ECOSS fails in several respects to properly allocate significant costs to cost causers and to correctly measure the cost of service to various classes and subclasses." *Id*. at 213. The Commission added that "the substantial deficiencies in specific elements of the ECOSS render it problematic for purposes of setting rate in [Docket 07-0566]." *Id*. Despite the obvious shortcomings with ComEd's cost study, the Commission concluded its was faced with two less-than-optimal choices – ComEd's ECOSS and Commission Staff's ("Staff") proposal to use an across-the-board increase. *Id*. Deciding, essentially, that ComEd's ECOSS was less objectionable than Staff's across-the-board proposal, the Commission decided to use, with one modification, the utility's cost study to set rates. *Id*.

However, in an unusual maneuver, the Commission initiated the current case to investigate ComEd's rate design. In its Initiating Order, the Commission summarized many of its statements from its Rate Order criticizing ComEd's ECOSS in Docket 07-0566. Initiating Order at 1-2. Citing its authority under section 9-250 of the Public Utilities Act (220 ILCS 5/9-250), the Commission stated that it was initiating an investigation "into all aspects of the rate design of ComEd, specifically for the rate increases granted in Docket 07-0566." Initiating Order at 2. In announcing its investigation, the Commission ordered ComEd to file a new cost-of-service study that addressed the numerous problems the Commission discussed in its Rate Order and that are described above. Indeed, the Initiating Order listed several specific requirements that were to be included as part of ComEd's revised study:

> (1) differentiate[ ] between primary and secondary voltage level; (2) analyze[ ] the cost of providing Customer Care to a customer taking supply from an alternative supplier versus the cost of providing Customer Care to a customer taking supply from ComEd; (3) analyze[ ] the extent to which usage contributes to customer billing costs, data management costs, installation costs, service drops, and customer information costs and whether factors other than the number of customers in a class should be taken into account in the assignment of these costs to rate classes; (4) ... allocate[ ] uncollectible debt expense costs across all residential classes; and (5) take[ ] into account ownership and maintenance responsibilities of street lighting in the City of Chicago and other municipalities and allocate[ ] costs accordingly.

Id. The Commission added that it "will utilize these updated studies provided in this record to perform a comparative analysis with the rate structure allowed in our Order in Docket 07-0566. Based on this analysis we will determine what changes, if any, are necessary, to ensure that the rate structure of ComEd, with appropriate consideration of historic rate structures of the company, are in fact just and reasonable." *Id*. at 3.

Based on the foregoing, it cannot be seriously disputed that the Commission was dissatisfied with ComEd's cost study in Docket 07-0566. Similarly, it is beyond dispute that the Commission expected that the cost study ComEd was ordered to submit in this case would be modified significantly, correcting the numerous deficiencies the Commission identified in its Rate Order.

However, apparently ComEd interpreted the Commission's directives differently because the revised cost study was, at best changed around the edges, compared to the utility's cost study in Docket 07-0566. On cross-examination, ComEd's Manager of Retail Rates, Lawrence S. Alongi, admitted that ComEd's revised cost study is "similar" to the utility's cost study in the last case. Nov. 3, 2009 Tr. at 683-84.

In fact, as to two of the cost-of-service issues that the City raised in Docket 07-0566 and that the Commission cited in its Initiating Order – the costs to serve the City's street lights and whether certain components of customer costs should be allocated based on usage rather than the number of customers within the various rate classes – ComEd made no changes from its prior study to its revised study.

With respect to the third issue raised by the City in Docket 07-0566 – the method for allocating uncollectible expense within the residential class – ComEd initially complied with the Commission's directive that this expense be allocated evenly across the residential class. ComEd Ex. 3.0 at 1, LL 17-18. However, in its rebuttal case, ComEd retreated from its previous position and, contrary to the Commission's Rate Order and its Initiating Order, reverted to its previous allocation method – the same method the Commission labeled "unfair" in the Rate Order. ComEd Ex. 7.0 at 15, LL 315-17.

The utility's failure to comply with the Commission's directions is especially glaring with respect to the City's street lighting account. In its Initiating Order, the Commission clearly intended that ComEd's cost study be modified to reflect the lower costs of serving the City's street lights. In the Commission's words, ComEd's revised study must "take[ ] into account ownership and maintenance responsibilities of street lighting in the City of Chicago and other municipalities and allocate[ ] costs accordingly." Initiating Order at 2. In other words, the Commission was concerned that because ComEd supplies all street lighting equipment to most municipalities, its ECOSS allocates the costs of all street lighting equipment to the City (and other similarly-situated municipalities) although the City (and other similarly-situated municipalities) own and maintain a significant portion of that equipment.

In response to this clear directive to change its cost study ComEd did nothing. In its direct case, Mr. Alongi testified

> Under my direction and supervision, ComEd reviewed the "Terms and Conditions" portion of its tariffs as it relates to street lighting. In addition, ComEd re-examined the ECOSS from the 2007 rate case to determine whether ComEd included any street lighting costs that were not costs that ComEd incurs in serving its street lighting customers. We determined that the ECOSS does not include such costs. Instead, the ECOSS includes only ComEd's costs for serving street lighting customers.

ComEd Ex. 1.0 at 26, LL 532-37. Mr. Alongi went on to say

> ... [F]or dusk to dawn and general lighting customers, the costs of customer owned facilities for the lighting system itself and customer-supplied service cable connecting the lighting system to ComEd's distribution system are not included in the ECOSS, as these are not costs that ComEd incurs for the dusk to dawn and general lighting customers. Within the ECOSS, ComEd does not include or assign the costs for customer-supplied service cable, customer-installed poles, or any other customer-owned electrical equipment for any ComEd customer.

Id. at 25, LL 520-26.

As hard as it may be to believe, ComEd interpreted the Commission's Rate Order and its Initiating Order to mean that the Commission was asking it to determine if any customer-owned facilities were included in its cost study. ComEd's position is pure sophistry. ComEd knows, the Commission, knows, anybody who was paying attention knows that the City did not argue that the street lighting facilities it owns were inappropriately included in ComEd's ECOSS. As City witness Edward C. Bodmer testified "Rather, the point is that in calculating City street light rates, ComEd assumes that the City, like most other municipalities uses ComEd-owned and supplied facilities and, most importantly, charges the City for using facilities that ComEd does not provide." City Ex. 1.0 (2nd Rev.) at 24, LL 579-82.

Of course, that is the only interpretation that makes sense. It is also the only interpretation consistent with the Commission's concern in its Rate Order that ComEd's ECOSS, by assuming that it supplied all street lighting equipment to the City and similarly-situated municipalities, meant that "the rate for the street lighting in the City and probably other municipalities that own all or part of their own lighting is likely higher by a significant but un-quantified amount than it should be." Rate Order at 208.

The purpose of this case was to determine that "un-quantified amount." ComEd ignored the Commission's mandate. It made no effort to determine that "un-quantified amount." ComEd defended its decision to do nothing by advancing what can most charitably be called a specious interpretation of the Commission's Initiating Order. The Commission must not condone such game-playing.

Almost as bad as ComEd's failure to comply with the Commission's Initiating Order with respect to the City's street lighting account was the utility's analysis of certain components of customer costs to determine if such components should be allocated on a usage basis. ComEd's "analysis" in response to this directive in the Commission's Initiating Order was perfunctory at best. In effect, ComEd did no analysis. Instead, it merely repeated that the various components were not usage-related.

B. ComEd's Failure to Comply With the Commission's Initiating Order Is an Attempt to, in Effect, Transfer the Burden of Proof to Staff and Intervenors.

In its Initiating Order, the Commission made ComEd the respondent in this case. Initiating Order at 3. As the respondent, ComEd bears the burden of proving that its ECOSS will establish just and reasonable rates. 220 ILCS 5/9-201(c). However, by failing to comply with the Commission's Initiating Order, ComEd, in effect, transferred the burden of proof to Staff and Intervenors.

As described in the previous section, ComEd failed to comply with the Commission's Initiating Order with respect to (1) the City's street lighting costs and (2) whether certain components of the customer costs category are usage-related. As a result City witness Bodmer conducted the analyses that the Commission directed ComEd to do. Mr. Bodmer conducted a detailed analysis of the facilities that ComEd uses to serve City street lights to determine the "un-quantified amount" by which City street lighting rates are too high. Mr. Bodmer also performed a painstaking analysis of the hundreds of accounts that make up the components of the customer costs category to determine if such components are related to usage.[1]

Rather than doing these analyses itself, ComEd chose to sit back and attempt to pick apart Mr. Bodmer's analyses. Presumably, ComEd's strategy in doing so is to argue later that the City's analysis is faulty and, therefore, should be rejected. In other words, ComEd may argue that the City failed to prove the amount by which its street lighting rates are too high. Of course, the City has no burden to demonstrate that its street lighting rate is too high. ComEd has to prove that its ECOSS can be used to establish just and reasonable rates.

The same is true of ComEd's failure to seriously analyze customer costs. By sitting back and criticizing Mr. Bodmer's detailed work, ComEd can claim that the City failed to show that the various components are related to usage. This turns the burden of proof on its head. The City has no burden to establish that the various cost components of the customer cost category are usage-related. Rather, it is ComEd's burden to not only establish that its preferred method

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[1] Mr. Bodmer's analyses of ComEd's costs to serve City street lights and the various components of the customer cost category are described, respectively, in Section II.C and II.D below.

for allocating these costs by the number of customers in its various customer classes is just and reasonable.

Moreover, ComEd's unwillingness to accept its burden of proof required the City and other parties to undertake substantial effort and incur additional expense to provide a meaningful investigatory record to the Commission. Due to ComEd's failure to submit a revised cost study that complied with the Initiating Order, the Intervenors and Staff were required to seek information from ComEd, conduct their own investigations, retain experts, and prepare and submit testimony at the hearing in this case. Had ComEd's revised cost study complied with the Initiating Order, the costs incurred by the Intervenors and Staff, and the length of this proceeding, no doubt would have been substantially reduced.

For all of the foregoing reasons, t he Commission should reject ComEd's efforts to flip the burden of proof on to intervenors.

C. **Mr. Bodmer's Analysis of ComEd's Costs to Serve City Street Lights Confirms the Commission's Assumption that ComEd's ECOSS Results in Rates that Are Too High for the City's Street Light Account.**

As discussed above, the Commission determined in its Final Order in Docket 07-0566 that "the rate for street lighting in the City and probably other municipalities that own all or part of their own lighting is likely higher by a significant but un-quantified amount than it should be." Rate Order at 208. Unfortunately, as also discussed above, ComEd failed to conduct a serious analysis to determine what that "un-quantified amount" is, instead adopting a spurious interpretation of what the Commission's Initiating Order directed the utility to do with respect to the City's street lighting account. As a result, City witness Bodmer had to step up to do the work that ComEd failed to do. As shown below, Mr. Bodmer's analysis showed that the Commission's assumption that ComEd's cost study results in rates that are too high for City street lights was correct.

Mr. Bodmer began his analysis by noting that ComEd claims that since 1999, the distribution cost of service for ComEd's Dusk-to-Dawn customer class – the class that includes the City's street lighting account – has increased from \$0.00729 per kWh to \$0.01576 per kWh, an astonishing 116% in less than ten years. City Ex. 1.0 (2nd Rev.) at 20, LL 462-67. ComEd's estimate of the distribution costs it incurs to serve the Dusk-to-Dawn customer class ***increased*** 99% from 1999 to its rate case in 2007. *Id*. at LL 470-73. During that same period, the distribution costs ComEd estimated it incurs to serve all other non-residential classes ***decreased*** from 17% to 28%. *Id*. at LL 467-73.

Mr. Bodmer explained that the major reason in the astonishing increase in the costs ComEd estimates it incurs to serve the Dusk-to-Dawn class is the utility's switch from coincident peak allocation to non-coincident peak allocation when the utility changed from a marginal cost-of-service study to its embedded cost-of-service study. A marginal cost-of-service study

> correctly account[s] for the fact that additional distribution wires are needed when they are at or near capacity – that is, when peak load is highest. This occurs in the afternoon on hot summer days – a time when street lights are turned off. Thus, street lights do not put strain on the system and, therefore, do not add to the need to install additional primary equipment.

Id. at 21, LL 480-84.

1. Description of City Street Lighting Configurations

Next, Mr. Bodmer described the various lighting configurations that make up the City's street lighting – alley lights, residential street lighting, and arterial street lighting. In his analysis of ComEd's costs to serve City street lights, Mr. Bodmer focused only on residential street lighting and arterial street lighting.[2] The major components of the facilities used to serve residential street lights and arterial street lights are described in turn.

Residential Street Lights

- City-owned wire between light poles;
- City-owned poles;
- City-owned lamps;
- Lamps operated by City-owned controllers;
- Controllers usually located on a ComEd pole at mouth of an alley;
- Each controller serves 10-20 lights;
- All wire going into the controller is owned by ComEd and all wire coming out is owned by the City;
- The ComEd wire to the controller usually comes directly from ComEd transformer and is usually less than 10 feet longer, significantly shorter than the typical service drop to a residential customer; and
- The City provides maintenance for all facilities from the controller to the City's residential street lights.

City Ex. 1.0 (2nd Rev.) at 26-28, LL 634-65. Mr. Bodmer added that if one calls the wire going from ComEd's transformer to the City's controller a service drop, then there is no secondary wire for City residential street lighting. Conversely, if one calls the wire from the transformer secondary wire, then there is no service drop. Mr. Bodmer demonstrated that there is no other secondary wire required for residential street lights. Yet, ComEd's ECOSS assumes that all customer's in the Dusk-to-Dawn class, including the City's residential street lights, are served by both secondary wire and service drops. *Id*. at 28, LL 667-73. In addition, although the City

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[2] In its rebuttal testimony, ComEd criticized Mr. Bodmer's description of City alley lighting. ComEd Ex. 6.0 at 47, LL 1102-04; at 49, LL 1127-35. In his rebuttal testimony, Mr. Bodmer explained that ComEd's criticisms of his description of City alley lighting is pointless because he did not include alley lights in his analysis of the facilities ComEd provides to serve the City's street lighting account. City Ex. 2.0 (Rev.) at 7, LL 138-49.

provides maintenance for all facilities from the City controller to the City's residential street lights, ComEd's ECOSS assumes that the utility provides maintenance for all street lighting equipment. *Id*. at 28, LL 673-75.

Arterial Street Lights

- City-owned wire between light poles;
- City-owned poles;
- City-owned lamps;
- Lamps operated by City-owned controllers (the controllers for arterial lights are called Milbanks);
- Milbanks usually located on a ComEd pole at mouth of an alley;
- Each Milbank serves 30-40 arterial lights;
- All wire going into the Milbank is owned by ComEd and all wire coming out is owned by the City;
- The ComEd wire to the Milbank usually comes directly from a ComEd transformer and is usually 10 to 15 feet long if the transformer and the Milbank are on the same pole; and
- The wire from the Milbank to the City-owned poles and lamps often goes underground and is owned, operated, and maintained by the City.

Id. at 29-30, LL 677-709. As with City residential lights, ComEd's ECOSS assumes (1) that City arterial lights are served with both service drops and secondary wire and (2) that ComEd owns and maintains all of the arterial lighting facilities. Like residential street lights, there is no secondary wire other than the connection between the transformer and the City-owned controller.

After describing the City street lighting configurations, Mr. Bodmer explained that there are two street lighting configurations by which ComEd provides street lighting service to municipalities other than Chicago. In the first configuration, ComEd owns and maintains all of the lighting equipment including poles, lamps, and wires. This configuration is included in a street lighting class entitled ""Fixture Included Lighting." *Id*. at 30, LL 713-17. In the second configuration, ComEd owns the poles and the wires, but the municipalities own the lamps. The municipalities in the second configuration are in the same street lighting class as the City – the Dusk-to-Dawn class. *Id*. at 31, LL 721-24. Because the first configuration is in a different street lighting class, Mr. Bodmer looked only at the Dusk-to-Dawn class, and did not analyze the costs to serve the Fixture Included class.

2. ComEd's ECOSS Inappropriately Over-Allocates Secondary Service Costs to the City.

After describing the street lighting configurations in Chicago and in municipalities other than Chicago, Mr. Bodmer explained that ComEd's ECOSS over-allocates secondary service costs to the City. Mr. Bodmer testified that City street lights used 57% of the energy used by the Dusk-to-Dawn class. Using that number, Mr. Bodmer calculated that ComEd allocates more than $4.5 million to the City of the $7.9 million it estimates it incurs to serve the Dusk-to-Dawn street lighting class. *Id*. at 31, LL 728-32. Of the $4.5 million of costs allocated to the City, 17%, or $755,802, represents secondary wire costs and 3.5%, or 156,658, represents service drop costs. *Id*. at 31, LL 732-33.

As discussed above, Mr. Bodmer made clear that the City's residential lights and arterial lights are served by either secondary wire to the connector or service drops, but not both. In addition to those overcharges, Mr. Bodmer showed that ComEd's ECOSS effectively allocates $248,000[3] for operation and maintenance ("O&M") for City secondary wire for arterial and residential street lights even though the City does that O&M work. *Id*. at 32, 741-47. Mr. Bodmer also showed that although the City owns all secondary wire between its residential street lights and between its arterial street lights, inexplicably the Dusk-to-Dawn street lighting class is allocated more secondary wire costs as a percent of total costs of service than any other rate class. *Id*. at 32-33, LL 751-57.

The story is similar with respect to service drop costs. Mr. Bodmer explained that although the City's residential street lights and arterial street lights are not served by service drops, ComEd's cost study nonetheless allocates more service drop costs as a percent total costs of service to the Dusk-to-Dawn street lighting class than all other non-residential classes with the exceptions of the Watt-Hour Class and the General Lighting Class. *Id*. at 33-34, LL 758-71. These glaring errors in ComEd's cost study show that it has no credibility with respect to estimating the costs the utility incurs to serve the City's residential and arterial street lights.

Using information provided in ComEd's workpapers, Mr. Bodmer was able to estimate the amount of secondary wire ComEd uses to serve City residential and arterial street lights. In the interest of brevity, the City will not reproduce Mr. Bodmer's analysis of secondary wire costs here other than to say that using an estimate of 50 feet for City residential street lights and 40 feet for City arterial lights, Mr. Bodmer testified that the actual costs of secondary wire ComEd incurs to serve City residential and arterial street lights is approximately $74,000. *Id*. at 36, LL

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[3] Mr. Bodmer explained that in making his calculations, he made appropriate adjustments for the fact that his analysis was limited to the City's residential and arterial street lights and did not include the City's alley lights, because alley lights are attached to ComEd poles.

819-23; at 36-37, LL 827-29. ComEd's ECOSS allocates about $684,000 to the City for secondary lines and service drops, a more than 800% increase over Mr. Bodmer's $74,000 figure. *Id*. at 36, LL 821-29.

In his rebuttal testimony, ComEd witness Alongi challenged Mr. Bodmer's assumptions regarding the length of secondary wire ComEd uses to serve City residential and arterial street lights. Mr. Alongi stated that ComEd analyzed a small section of the City to determine the average number of feet of secondary wire that ComEd supplies to the City's residential and arterial street lights. ComEd Ex. 6.0 at 48, LL 1105-23. Mr. Alongi said that the average length of secondary wire that ComEd sampled was 113 feet. *Id*. at 48-49, LL 1123-25.

Before addressing the substance of Mr. Alongi's assertion, it must be noted that ComEd's analysis of a portion of its costs it incurs in serving City residential and arterial street lights came more than a little late. The Commission directed ComEd to perform such an analysis in its Initiating Order, but ComEd failed to comply with the Commission's instruction. Instead, the utility asserted that the Commission was asking the utility to ensure that the costs of any City-owned street lighting were not included in its ECOSS. As discussed in section II.A above, not only is ComEd's claim silly, ComEd's failure to address the issue in its revised cost study forced the City to incur substantial expense to put on a case regarding the true cost of service for the City's street lights.

Moreover, as discussed in section II.B above, ComEd's tactic of attacking the details of Mr. Bodmer's analysis is a perfect example of the utility trying to reverse the burden of proof. Rather than conducting an analysis of the costs it incurs in serving the City's street lights, ComEd sat back and waited to pounce on the analysis the City had to do fill the void left in ComEd's direct case. The Commission should reject such tactics.

In any event, in his rebuttal testimony, Mr. Bodmer modified his calculation of the costs of secondary wire and service drops ComEd incurs to serve City residential and arterial street lights to include ComEd's 113 feet estimate. Doing that increased Mr. Bodmer's estimate of the costs of secondary wire and service drops ComEd incurs to serve City residential and arterial street lights to approximately $183,000 – (City Ex. 2.0 (Rev.) at 21, LL 468-81) a figure significantly less than the $684,345 estimate included in ComEd's cost study.

3. <u>ComEd Inappropriately Uses the Non-Coincident Peak Methodology to Allocate the Costs of Primary Wires.</u>

Mr. Bodmer also testified that the manner in which ComEd's ECOSS allocates the costs primary wires results in inflated rates for street lighting customers. ComEd uses the non-coincident peak ("NCP") method to allocate the costs of primary wires to its customer classes. City Ex. 1.0 (2nd Rev.) at 38, LL 840-45. Mr. Bodmer testified that ComEd's method is incorrect. Mr. Bodmer advocated that primary lines be allocated using the coincident peak ("CP") methodology.

Staff witness Peter Lazare made the same recommendation. Mr. Lazare stated that ComEd's NCP method "is composed of the peak demands for all rate classes without regard to how those peaks coincide with the peak for the system as a whole." Staff Ex. 1.0 at 34, LL 781-83. Mr. Lazare added that the CP method "measures the demands for each rate class at the time that demand by the system as a whole is at a peak." *Id*. at 34, LL 783-34. Mr. Lazare explained that ComEd's NCP method

> penalizes the lighting class which uses most of its electricity during off-peak, evening hours. Distribution substations and primary lines serve not just the lighting class, but other classes as well and the level of demands they serve can be expected to rise

> and fall with overall system demands rather than with any individual class. When coincident demands are at their peak, it would be reasonable to assume that demands for distribution substations and primary lines will peak as well. However, when the system is peaking, lighting demands are low because lighting does not peak until evening hours. In other words, lighting customers use less when capacity is tight and more when spare capacity is available. This is a clear benefit to the system from a cost standpoint.

Id. at 34-35, LL 793-802. Mr. Bodmer made similar points in his direct testimony. *See*, City Ex. 1.0 (2nd Rev.) at 38-41, LL 846-908.

In his rebuttal testimony, ComEd witness Alan C. Heintz, the author of ComEd's ECOSS, defended the use of the NCP allocator. Mr. Heintz made several arguments in reponse to Mr. Bodmer's and Lazare's respective criticisms of the NCP method. Mr. Heintz's claims are set forth in italics and are underlined below. Mr. Bodmer's and Mr. Lazare's responses follow.

<u>*Use of CP Conflicts with Commission Precedent*</u> (ComEd Ex. Ex. 7.0 at 4-5, LL 81-87) – Mr. Bodmer responded that Mr. Heintz's fixation with past Commission cases "seems to have no place in a case where the Commission has asked ComEd and the parties to work through complex cost-of-service issues. Doing so requires independent thinking, not simply restating what others have done." City Ex. 2.0 (Rev.) at 13, LL 297-300. Mr. Lazare made a similar point stating

> the current proceeding established by the Commission asks the Company to set aside precedent and revisit a host of cost of service issues. (Initiating Order, pp. 1-3, 9/10/2008) For example, the Commission has instructed the Company to separate distribution costs into primary and secondary components despite the lack of precedent for such an analysis of the ComEd system. (Initiating Order, p. 2, 9/10/2008) In this docket where the Commission has decided to take a fresh look at the entire cost of service, precedent should not prevent the Commission from adopting a more cost-based allocation of substation and primary line costs.

Staff Ex. 2.0 at 22, LL 481-89.

Mr. Bodmer added that Mr. Heintz's claim that using the CP allocator would violate Commission precedent was not accurate, noting that

> For decades, ComEd differentiated primary and secondary lines in a cost study (*i.e.* before ComEd started using Mr. Heintz's methodology). When it did so, the Company allocated primary lines using CP and secondary lines using NCP and the Commission endorsed its approach.

City Ex. 2.0 (Rev.) at 13, LL 290-94.

Mr Lazare "has not proffered any specific evidence supporting his assertion that ComEd's planning for and sizing of primary facilities is driven by system peak demands, rather than local area demands" (ComEd Ex. 7.0 at 5, LL 88-90) – Mr. Bodmer responded that "Mr. Heintz is correct that costs are driven by "local area demands." *Id*. at 5, LL 89-90. However, Mr. Heintz ignored the most important fact – that local area demands are local area coincident peak demands – not artificial non-coincident peak demands." City Ex. 2.0 (Rev.) at 14, LL 304-07. Mr. Bodmer added that there is "no logical reason to allocate primary facilities on the basis of an artificial concept – NCP – that leads to inequitable results." *Id*. at 14, LL 310-11.

Mr. Lazare was even more pointed in his response, saying

> An allocator is chosen for any set of costs because it presents the more reasonable explanation for how those costs are caused by rate classes. In my testimony, I seek to explain why coincident peaks provide the most reasonable basis for allocating these costs. Mr. Heintz, for his part, does not even bother to discuss the cost justification for the Company's noncoincident peak allocator.

Staff Ex. 2.0 at 21, LL 473-78. On this last point, Mr. Lazare added that despite all of his criticisms about Mr. Lazare's recommendation that the CP allocator be used for transformers and primary lines, "Mr. Heintz presents no arguments why, from a cost standpoint, a non-coincident peak allocator is more appropriate for substations and primary lines than a coincident peak approach." *Id*. at 20, LL 451-53.

Mr. Lazare is concentrating on "the alleged benefits for the three lighting classes (which, together, comprise only 1.5% of the total distribution services revenue requirement)" do not offset the "detrimental effects on other classes (which comprise more than 98% of that revenue requirement)" (ComEd Ex. 7.0 at 4, LL 77-80) – Mr. Bodmer responded that Mr. Heintz's argument was

> irrelevant and wrong. Mr. Heintz's point that that when allocation to one class is reduced, allocations to other classes increase adds nothing – the Commission understands that cost of service issues are a zero sum game. Changing the allocation of primary facilities to the logical coincident peak basis has small effects on other classes, some of which are positive and some of which are negative.

City Ex. 2.0 (Rev.) at 14, 316-21. Mr. Bodmer also analyzed the impact of using a CP allocator on ComEd's other customer classes and found that "use of CP benefits multi-family ratepayers, space heat ratepayers, small business ratepayers, as well as street light ratepayers. The residential single family class and the large business classes have increases of less than 10%." *Id*. at 14-15, LL 323-37.

Mr. Lazre responded that Mr. Heintz's argument is baseless. Mr. Lazare stated he focused

> on the lighting class because it illustrates the shortcomings of using a non-coincident peak allocator for these costs. Individual substations and primary lines are not constructed to serve customers within any single class but rather to serve customers from numerous classes. This means that a substation or primary line is not sized to meet the demands of any single class, but rather the collective demands of customers from numerous classes. Lighting provides a useful example of the issue because its peak demands generally do not coincide with peak demands for the

> system as a whole. Thus, it would be reasonable to assume that the peak demands for lighting do not play the same role in shaping substation and primary line investments as the collective demands for all classes at the time of system peak demands. Thus, coincident peak demands, rather than non-coincident peak demands, provide the most reasonable basis for allocating these costs.

Staff Ex. 2.0 at 21, LL 458-70.

In sum, Mr. Heintz provided no support for ComEd's preferred NCP allocator. In contrast, both Mr. Bodmer and Mr. Lazare explained why the CP allocator is consistent with cost causation principles. In addition, Mr. Bodmer and Mr. Lazare thoroughly refuted Mr. Heintz's arguments against use of the CP allocator.

4. <u>ComEd's ECOSS Does Not Properly Account for the Fact that the Majority of City Street Lights are Served by Overhead Lines.</u>

Mr. Bodmer testified that except for the City's central business district, almost all of the City's street lights are served by overhead lines. City Ex. 1.0 (2nd Rev.) at 45-46, LL 997-99. Mr. Bodmer noted that there is a very large cost difference between serving customers with overhead and underground lines. *Id*. at 46, LL 1003-06. However, while ComEd's past cost studies accounted for this significant cost difference, ComEd's ECOSS glosses over it. *Id*. at 46, LL 1005-06. Instead, in estimating the costs to serve City street lights, ComEd's ECOSS uses the average cost of distribution lines in the City. This distorts ComEd's true cost of serving City street lights.

Mr. Bodmer testified that although the vast majority of distribution lines in Chicago are overhead, 73% of ComEd's distribution costs in the City are for underground lines. *Id*. at 47, LL 1017-24. The explanation for this is that underground lines are significantly more expensive than overhead lines. Because most City residential and arterial street lights are served by overhead lines, Mr. Bodmer concluded that ComEd's ECOSS should be modified to reflect the lower costs of overhead lines serving the City's residential and arterial street lights. *Id*. at 47, LL 1030-31.

5. <u>ComEd's ECOSS Does Not Properly Account for the Fact that Unlike Other Municipalities, the City Owns and Maintains Its Residential and Arterial Street Light Poles.</u>

As the Commission recognized in its Rate Order and its Initiating Order, unlike other municipalities, the City owns the poles used to provide residential and arterial street lighting. Rate Order at 208; Initiating at 2. Indeed, one of the purposes of this proceeding was for ComEd to submit a revised cost study reflecting that fact. Initiating Order at 2. Unfortunately, as said many times above, ComEd did not comply with the Commission's directive to do so. Nor did ComEd comply with its directive to modify its ECOSS to reflect the fact that City maintains the poles used to provided residential and arterial street lighting in Chicago. ComEd's ECOSS should be revised to reflect these important facts.

6. <u>Summary of the Cost Impact of the Errors in ComEd's Cost Study on the City's Street Lighting Account.</u>

After detailing the numerous errors in ComEd's cost study, Mr. Bodmer stated that "the Commission was right on the mark when it wrote that 'the rate for street lighting in the City and probably other municipalities that own all or part of their own lighting is likely higher by a significant but un-quantified amount than it should be.'" City Ex. 1.0 (2nd Rev.) at 51-52, LL 1119-22. In his direct testimony, Mr. Bodmer included a table showing the cost impacts of (1) correcting the errors in ComEd's cost study related to secondary service and (2) properly allocating primary facilities using the CP method. *Id*. at 53, LL 1146-47. Mr. Bodmer's table showed that accounting for these two factors reduces ComEd's costs to serve the City's street lights from $4,537,439 to $1,780,908, a difference of $2,756,532. *Id*. at 53, 1153-54. Mr. Bodmer pointed out that his summary did not include adjustments to reflect (1) cost differences driven by density or overhead versus underground facilities or (2) cost differences resulting from City ownership and maintenance of poles for arterial and residential street lights. *Id*. at 53, LL 1147-50. Although it is likely that a larger rate reduction is warranted, to be conservative, Mr. Bodmer recommended that the City's street lighting rate be cut in half to correct for the many errors in ComEd's cost study. *Id*. at 53. LL 1150-52.

D. <u>Contrary to the Commission's Directive, ComEd Conducted Only a Perfunctory Analysis to Determine if Its Customer-Related Costs Should Be Allocated Based on Customer Usage.</u>

In its Rate Order, the Commission agreed with the City's argument that ComEd's preferred method of allocating customer costs based on the number of customers in each customer class encouraged inefficient energy consumption, stating

> The City argues that imposing costs on customers who use less energy is, at best, inconsistent with the General Assembly's mandate that reducing energy use is a vital policy objective of the State.
>
> ***The Commission agrees.*** Customer costs are about 20% of the total cost of service. Because the allocation of customer billing costs, data management costs, installation costs, service drops, and customer information costs are assigned on the number of customers, residential customers currently pay 80% of them. These costs should be attributed as far as is practical to the cost causers.

-Rate Case Order at 211 (emphasis added). In its Initiating Order, the Commission ordered ComEd to "analyze[ ] the extent to which usage contributes to customer billing costs, data management costs, installation costs, service drops, and customer information costs and whether factors other than the number of customers in a class should be taken into account in the assignment of these costs to rate classes." Initiating Order at 2.

As with ComEd's efforts with respect to the City's street lighting account, ComEd made little, if any effort to comply with the Commission's directive. ComEd's lack of effort is demonstrated by statement like this one made by ComEd witness Michael J. Meehan regarding the allocation of customer service costs: "ComEd's analysis shows that usage does not contribute to ComEd's customer services costs. Instead, ComEd's experience has been that the number of customers determines the level of these costs." ComEd Ex. 2.0 at 3, LL 49-51. That is the sum total of ComEd's "analysis."

Because ComEd made little effort to comply with the Commission's Initiating Order, Mr. Bodmer conducted a detailed study of ComEd's accounts to determine how these costs should be properly allocated. At the outset, Mr. Bodmer noted that in deciding how to allocate customer costs, one must keep in mind the business that ComEd is in as a monopoly distribution company – moving power over distribution lines. City Ex. 1.0 (2nd Rev.) at 55, LL 1213-16. Mr. Bodmer added that electricity usage, not the number of customers, drives the costs of the distribution system. *Id*. at 56, LL 1229-30. Mr. Bodmer stated that ComEd's allocation method ignores that basic principle, instead allocating costs in the most regressive manner possible. *Id*. at 56, LL 1230-34.

Mr. Bodmer added that certain costs, like ComEd's so-called customer-related costs do not easily fit within any cost allocation box. *Id*, at 66, LL 1457-58. Examples of such costs include the costs ComEd's Call Center incurs to handle customers who are moving, the costs of customers who call ComEd with complaints, customers who request a change in the type of service, and upper management salary costs. *Id*. at 66, LL 1460-64; at 67, LL 1472-75. Mr. Bodmer testified that ComEd allocates these not-easily-allocated costs using the most regressive means available, the number of customers within each class.

Mr. Bodmer testified that the more fair method for allocating the costs identified in the Commission's Initiating Order is "to allocate the costs to ratepayer classes by first splitting the costs between residential and non-residential classes. Then, within the residential class, the costs should be allocated on the basis of energy used and not on the basis of the number of ratepayers." *Id*. at 67-68, LL 1487-91.

Certain of the cost categories Mr. Bodmer analyzed are discussed below.

1. Data Management Costs

Mr. Bodmer testified that ComEd includes items such as the costs the utility incurs to handle customers who are moving in Data Management Costs. Mr. Bodmer explained that it is unfair to allocate the costs of customers who move based on the number of customers because it unfairly burdens multi-family customers (many of whom are often low-use customers) to have to pay a higher proportion of such costs than a customer moving from one large house to a larger house in the collar counties. *Id*. at 69, LL 1513-19. Mr. Bodmer testified that a more reasonable method for allocating the costs associated with customers who move is "to split the moving costs first between residential and non-residential ratepayers, and then allocate the costs within the residential class on the basis of energy used." *Id*. at 69, LL 1519-21.

ComEd also includes the $4.8 million cost of addressing billing mistakes in Data

Management Costs. *Id*. at 69, LL 1525-27. When administrative costs and overhead are included, the cost associated with dealing with billing errors increases to almost $11 million. *Id*. at 69, LL 1527-28. Although it is exceedingly likely that a large percentage of billing errors are associated with large, complex bills, ComEd allocates the cost based on the number of customers, with the result that this burden falls heaviest on residential customers. *Id*. at 69-70, LL 1528-32. Mr. Bodmer recommended that it would be fairer to allocate billing error costs by first segregating billing error costs into residential and non-residential categories, and then allocating the amount within the residential classes based on usage. *Id*. at 70, LL 1532-35.

This is the one part of Mr. Bodmer's analysis of customer-related costs that ComEd directly challenged. In his sur-rebuttal testimony, ComEd witness Michael J. Meehan stated that "of the over 92,000 billing adjustments made by ComEd in 2006, more than 65,000 were made for residential customers." ComEd Ex. 9.0 at 9, LL 194-95. That means that 72% of the billing adjustments ComEd made in 2006 were made for residential customers (although ComEd presented no evidence of the dollar amount of the such billing adjusments). Nov. 2, 2009 Tr. at 444. However, residential customers make up 90.6% of ComEd's total customers *Id*. at 350. In other words, ComEd's analysis shows that although residential customers are only responsible for 72% of the number of billing adjustments, the utility allocates 90% of such costs to them. Thus, the one instance in which ComEd actually analyzed an item included in its customer-related costs shows that its preferred allocation method is crude at best.

2. <u>Customer Installation Costs</u>

Mr. Bodmer testified that ComEd includes the costs associated with customers who request a change in service and customer complaints in the customer installation cost category.

City Ex. 1.0 (2nd Rev.) at 70, LL 1539-43, 151552-55. As to customer complaints, Mr. Bodmer testified that most of the complaints concern power quality issues. *Id*. at 70, LL 1550-51. It is highly unlikely that residential customers generally, and low-use residential customers in particular, call to complain about power quality issues. Yet, ComEd's allocation method nonetheless imposes the majority of these costs on these customers. *Id*. at 70, LL. 1550-52. Mr. Bodmer stated that a far more reasonable allocation method "would be to first separate the costs between residential and non-residential ratepayers and then allocate the costs within the residential class on the basis of energy." *Id*. at 71, LL 1556-58.

3. <u>Customer Information Costs</u>

Mr. Bodmer testified that the customer information cost category includes such items as "providing technical services to ratepayers, market research, management of curtailment, City of Chicago College training, Exelon environmental strategy costs, and Nature First." *Id*. at 74, LL 1626-28. Mr. Bodmer stated that many of these cost items, such as management of curtailment and providing technical service to customers, have nothing to do with residential customers. *Id*. at 74-75, LL 1629-31. Yet, ComEd allocates these costs based on the number of customers, which has the largest impact on residential customers.

Mr. Bodmer analyzed all the project descriptions that ComEd includes in its customer information costs category. He then determined whether each project should be put into one of four categories: "whether (1) they should be allocated to business ratepayers, or (2) across all customer classes on the basis of demand, or (3) within the residential class, or finally (4) as overhead costs that should in turn be allocated to each of the items." *Id*. at 76, LL 1670-73. Based on his analysis, Mr. Bodmer concluded that "only 43% of the cost should be allocated to residential ratepayers" and 31.9% of the cost should be allocated to non-residential customers. *Id*. at 78-79, LL 1704-1705.

4. Summary of Customer Cost Issues

Mr. Bodmer summarized the many aspects of his analysis of customer cost issues in his rebuttal testimony. In that summary, Mr Bodmer, stated that in conducting his analysis, he "worked through each account provide by ComEd and identified the cause of each cost." City Ex. 2.0 (Rev.) at 32, LL 673-74. Based on this analysis, Mr. Bodmer stated that he made the following adjustments:

> - Many of the costs such as outage costs, general transmission and distribution costs, software costs, and management salaries are general costs that are associated with operating a distribution utility company. Rather than allocating these costs on the basis of the number of ratepayers, these costs should be allocated on the same basis as general distribution costs *i.e.*, on the basis of CP or NCP.
>
> - Customer information costs such as Nature First and City Colleges that provide general system benefits should be allocated on the basis of general demand allocators rather than the number of customers, since these programs are designed to benefit all customers.
>
> - Theoretically, billing exceptions costs should be allocated on the basis of ratepayers who cause the billing error to occur. This is not possible because there is no rate class for customers who have billing exceptions. However, ComEd's method of allocating these costs on the basis of the number of customers is not reasonable. A better alternative is to split the costs between residential and non-residential ratepayers and allocate the costs on the basis of energy within the residential class.
>
> - Complaint costs should be allocated on the basis of ratepayers who com-plain. This is not possible and the ComEd's method of allocating theses costs on the basis of the number of customers is unfair. A better alternative is to split the costs

> between residential and non-residential ratepayers and allocated on the basis of energy within the residential class.
>
> - Collections costs should be allocated to ratepayers who are delinquent. Since the revenues associated with late collection fees are not separated in the ECOSS, allocating costs on the basis of the number of customers is unfair to those low use ratepayers who pay their bills on time. A fairer alternative is to split them between residential and non-residential ratepayers and allocate them on the basis of energy within the residential class.

Id. at 32-33, LL 675-706.

Mr. Bodmer also summarized the cost impact of his customer cost analysis. Mr. Bodmer included a table showing that his recommendations would allocate almost $49 million in costs from residential classes to non-residential classes. *Id*. at 31, LL 646-648. Mr. Bodmer added that although his recommendations "result in a reduction in overall cost of service to multi-family ratepayers of more than 15%," these customers would still be "allocated 16% of the total costs even they only use 7.5% of the total amount of energy on the system." *Id*. at 31, LL 649-56.

There two especially notable facets of Mr. Bodmer's analysis. First, as Mr. Bodmer pointed out, ComEd did not challenge the details or identify any large errors in his analysis. *Id*. at 33, LL 708-11. Second, and maybe more importantly, Mr. Bodmer's lengthy and detailed analysis is in stark contrast to the cursory way in which ComEd treated customer cost issues.

As stated with respect to street lighting issues, the Commission should not condone ComEd's failure to comply with its Initiating Order. Nor should the Commission tolerate ComEd's tactic of criticizing other parties analyses after having failed to conduct its own analyses.

E. <u>The Commission Should Confirm Its Finding in its Rate Order that ComEd's Recommended Method for Allocating Uncollectible Expense is "Unfair."</u>

At least initially, this is one area where ComEd complied with the Commission's Initiating Order. Even then, as discussed by Mr. Bodmer, ComEd did the minimum in complying with the Commission's directive. Then, in a startling reversal, ComEd reverted to the method it used to allocate uncollectible costs within the residential classes that the Commission had rejected in its Rate Order. Rate Order at 211-212. The Commission should reject ComEd's failure ro comply with the Initiating Order and affirm its decision in the Order that residential uncollectible costs should be allocated across all residential classes.

In his rebuttal testimony, ComEd witness Alan C. Heintz stated that the only change ComEd made to its ECOSS concerning residential customers was to reallocate "uncollectible expense among residential classes." ComEd Ex. 3.0 at 1, LL 17-18. ComEd's initial position is consistent with the Commission's discussion in the Rate Order where it stated

> The City next points out that the ECOSS allocates 38.4% of its uncollectible costs to low use, non-space heat, multifamily customers who account for 5% of energy sales, rather than spreading the cost across the board to all residential classes. A large proportion of City customers are in this class. The City argues that the theory behind this allocation is apparently that the Company has determined that a larger portion of uncollectible costs should be attributed to that class of customers who in the future may be most likely not to pay their bills based on past experience. It is ironic that ComEd objects to allocating new facilities expenses on a geographic basis to the customers in the areas driving the request for a rate increase, but finds it appropriate that multi-family non-space heat customers should be charged for unpaid bills attributable to other delinquent multi-family customers. In any event, the Commission finds that this allocation method is unfair and inconsistent with the allocation of other residential customer costs. We agree with the City in this instance.

Rate Order at 211-212.

Mr. Bodmer pointed out that although ComEd's initially complied with the Commission's Initiating Order, the utility did the minimum in doing so. Mr. Bodmer explained that there are three ways to allocate costs that are not directly assignable: (1) based on the number of customers in each class, which Mr. Bodmer described as the most regressive method; (2) based on class revenues, a somewhat less regressive method; and (3) based on energy usage, the least regressive method. City Ex. 1.0 (2nd Rev.) at 61, LL 1332-37. Mr. Bodmer stated that although it was difficult to ascertain, ComEd chose the second method, which is better than the method it used in Docket 07-0566 where the utility allocated the residential uncollectible expense in the most regressive manner available, based on the number of customers. *Id*. at 61, LL 1339-42. Even then, ComEd's choice to allocate uncollectible expense based on class revenues is regressive because multi-family customers, who are often low-use and low-income customers, pay high rates relative to other classes. *Id*. at 61, LL 1342-43.

Because ComEd's methodology is still unfair to low-use customers, Mr. Bodmer recommended that the Commission reject ComEd's approach and order the utility to allocate uncollectible cost expense based on class usage. *Id*. at 61,LL 1346-49. Mr. Bodmer added that allocating uncollectible expense based on usage "is consistent with the legislature's directive that 'investment in cost-effective energy efficiency and demand-response measures will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure.," *Id*. at 61-62, LL 1349-53, *citing* 220 ILCS 5/12-103(a). Mr. Bodmer explained that when costs are allocated based on the number of customers or class revenues, they often end up in the customer charge. Because the customer charge is a fixed charge, it is unavoidable and, therefore, customers have less incentive to conserve energy. *Id*. at 62, LL 1365-69.

Mr. Bodmer added that besides its method for allocating the direct costs of uncollectible expense, ComEd also erred in failing to include certain indirect costs associated with uncollectible expense as part of the costs that should be allocated as part of that expense. In particular, Mr. Bodmer testified that the following indirect costs that are associated with efforts to collect unpaid bills should be allocated as part of uncollectible expense:

- monitoring accounts for non-payment;
- making phone calls to ratepayers related to collecting past due amounts;
- receiving phone calls from ratepayers;
- tracking the level of uncollectible accounts;
- preparing reports for uncollectible accounts;
- disconnecting customers;
- reconnecting customers; and
- monitoring payments for customers that have been re-connected.

Id. at 62-64, LL 1374-1415.

Mr. Bodmer calculated the amount of these indirect costs associated with uncollectible expense. Mr. Bodmer reviewed several FERC accounts to remove the items that are associated with uncollectible expense. *Id*. at 65, LL 1424-29. Next, he added administrative and general plant costs in a manner consistent with ComEd's ECOSS. *Id*. at 65, LL 1430-33. Finally, Mr. Bodmer allocated the portion of ComEd's call center activity associated with uncollectible expense. *Id*. at 65, LL 1434-37. The total of indirect uncollectible account expense was $37 million. *Id*. at 65, LL 1438-39.

Mr. Bodmer recommended that ComEd's uncollectible expense be allocated as follows:

> Once the total uncollectible costs are tabulated – which includes

> the direct cost of the uncollectible expenses plus the $37 million in indirect costs – the total costs should first be allocated among business and residential classes according to the uncollectible amounts for business and residential ratepayers. Then, within the residential class, the costs should be further allocated on the basis of the amount of energy within the class. This allocation method is fair; it encourages energy conservation and it does not penalize low use/low income ratepayers who pay their bills.

Id. at 66, LL. 1442-49.

Amazingly, in its rebuttal case, ComEd took a giant step backwards from its initial position regarding uncollectible expense. The utility chose to ignore the Commission's Rate Order, to not comply with the Initiating Order, and to not engage in a serious discussion as to how uncollectible expense should be allocated. ComEd (and Commission Staff and the Attorney General's Office (the "AG")) recommended that the utility revert to the method that it advocated in Docket 07-0566, the method the Commission had rejected as "unfair." ComEd Ex. 7.0 at 15, LL 315-17; Staff Ex. 1.0 at 28, LL 636-43; AG Ex. 1.0 at 8-9, LL 152-162. The basis for each party's position was its claim that the allocation method ComEd used in the rate case – allocating all of the uncollectible costs attributed to each residential class sub-class within each such sub-class – conforms to cost causation principles.

The Commission should reject ComEd's, Staff's, and the AG's position. In response to AG witness Scott J. Rubin, Mr. Bodmer explained the problem with going back to the allocation method the Commission rejected in Docket 07-0566. Mr. Bodmer stated

> Mr. Rubin apparently has not followed the debate in Docket 07-0566 where the Commission correctly recognized that costs for ratepayers who ***do not*** pay their bills should not be imposed disproportionately on low income ratepayers who ***do*** pay their bills. There is no doubt that people who rent and/or have low incomes are more likely to not pay their bills than people who live in large single family homes. But this does not mean imposing costs on multifamily ratepayers who do pay their bills is cost based

> or that it is equitable to impose a higher cost on similarly-situated ratepayers who do pay their bills. If your neighbor does not pay his bill, there may be, statistically, a higher probability that you will not pay your bill, but this does not mean that you <u>caused</u> ComEd to incur the expense of your neighbor's uncollectible account.

City Ex. 1.0 (2nd Rev.) at 44, LL 941-51.

The Commission should not reverse course here. ComEd's preferred method was "unfair" in Docket 07-0566 and it is "unfair" here. The Commission should adopt Mr. Bodmer's method for allocating ComEd's uncollectible expense.

III. CONCLUSION

It is clear that ComEd failed to comply with the Commission's Initiating Order in this case. The Commission directed ComEd to make significant changes to its cost study and, for the most part, ComEd ignored the Commission's instructions. As a result, the City respectfully requests that the Commission reject the ECOSS and revised ECOSS that ComEd submitted in this case. Instead, the City also respectfully requests that the Commission direct ComEd to modify the revised ECOSS that was submitted in its rebuttal testimony consistent with the changes described herein and in the City's testimony in this proceeding.

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Respectfully Submitted,

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